

The complaint

Mr and Mrs O complain that Bank of Scotland plc trading as Halifax (“Halifax”) acted irresponsibly when it increased their joint overdraft limit at various times over a number of years, times when they were struggling financially.

What happened

Mr and Mrs O have held a joint current account with Halifax for a number of years and were initially granted an overdraft limit of £200 in December 2012. The credit limit increased and decreased over the years.

In June 2024 Mr and Mrs O complained to Halifax that it had been irresponsible in increasing the overdraft limit over the years and it had failed to recognise that this overdraft wasn’t affordable when it conducted its annual reviews.

On 27 June 2024 Halifax sent Mr and Mrs O a final response letter (“FRL”). Under cover of this FRL Halifax said that their complaint was out of time for everything that happened more than six years ago. Halifax said it was satisfied it hadn’t acted irresponsibly when it renewed and subsequently increased their overdraft limit in the last six years. Halifax subsequently gave us consent to look at all of its the lending decisions, including those made more than six years ago.

Unhappy with the FRL, Mr and Mrs O brought their complaint to our service.

Mr and Mrs O’s complaint was considered by two of our investigators independently.

Our first investigator upheld the complaint for three specific periods during the lending relationship as detailed below. Mr and Mrs O accepted this outcome but Halifax didn’t.

Halifax said that during the period of October 2016 to July 2018, the rules regarding overdrafts weren’t as specific compared to those after 2019. Halifax said that it hadn’t identified a reliance on the overdraft but acknowledged that there were charges incurred and direct debits returned at times. Halifax put this down to account management as opposed to financial difficulty.

Halifax said that between October 2019 and February 2020, when the overdraft was increased to £2,500, Mr & Mrs O still had enough disposable income to make the increase affordable and the overdraft was repaid in full four months after the increase. Halifax said it conducted proportionate checks which demonstrated the increase was affordable and pointed out it declined a further increase to £3,000 during this period based on affordability and what its credit checks revealed.

Halifax said that the period of November 2020 to August 2022 when the overdraft was increased to £1,450 and then £1,900, our investigator had said it was irresponsible but hadn’t commented on an increase the year before to £1,600. It said there was a high income

coming into the account and there was no adverse credit information to indicate these increases weren't affordable.

In summary, Halifax believed it had acted responsibly throughout the lending relationship.

In June 2025 a second view was issued by another investigator after considering the comments Halifax had made. This investigator agreed with our first investigator's view with the exception of the period October 2016 to July 2018. He said that there was no reason for Halifax to consider that Mr and Mrs O were struggling financially at this time.

Mr and Mrs O accepted this outcome but Halifax didn't and so their complaint has been passed to me for review and decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I can confirm that I've come to the same overall conclusion as the second investigator and for broadly the same reasons.

I'm aware that I've summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision. So for clarity, in this particular case, I will be focussing on the two periods of lending above that Halifax haven't accepted were irresponsible. This is because Mr and Mrs O have accepted what our second investigator said and given that they have told us that they only started struggling financially in 2018 when they had a few costly car repairs to cover.

Lastly, I would add that where the information I've got is incomplete, unclear or contradictory, I've to base my decision on the balance of probabilities.

Did Halifax conduct proportionate checks prior to making its lending decisions?

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly. And in these circumstances, I think it needs to be noted that Mr and Mrs O had been banking with Halifax for a number of years.

So before approving the increases in overdraft limits, Halifax needed to make proportionate checks to determine whether the credit was affordable and sustainable for them. There isn't a prescribed list of checks a lender should make. But the kind of things I expect lenders to

consider include – but aren't limited to the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. And it's important to note that an overdraft is designed for short term borrowing. I'd also expect Halifax to think about Mr and Mrs O's ability to repay the whole borrowing in a reasonable period.

And in considering any application to increase, I would expect businesses to be aware of factors under the regulations that may indicate a consumer was suffering financial difficulty. These things include among others, adverse credit information, outstanding county court judgements (CCJ) for non-payment of debt or the consumer having to borrow further to cover existing debts.

Period of October 2019 to February 2020

In October 2019, Mr and Mrs O's overdraft limit was increased twice in short succession from £800 to £1,100 and then to £2,500. And up until this time, there was evidence from both the credit checks and statements that Mr and Mrs O were taking more debt to pay existing debt and so in essence they were in a permanent cycle of debt and reliant on hardcore borrowing. And I say this as despite there being no CCJ's or defaults from the credit checks Halifax conducted, prior to the increase there were four returned direct debits and they had taken out further credit. This included an £8,000 loan with Halifax, a £926 loan with another provider and other credit cards, with evidence of numerous cash withdrawals. I think this highlights the fact that Mr and Mrs O were taking out more credit to pay off existing debt which under the regulations, is evidence of financial hardship.

I acknowledge that Halifax have said that there were elements of non-essential spending which was a lifestyle choice but that doesn't negate its obligation to lend responsibly. And given Mr and Mrs O's reliance on hardcore borrowing evident at the time, I don't think it did.

In the three months following this increase, the account was constantly overdrawn and in January 2020 there were six returned direct debits. I think this highlights further that these increases weren't affordable or responsible. Mr and Mrs O were able to clear the overdraft in February 2020 but again, this was only by them taking out further credit in order to do so in the form of a loan with another provider. So given the financial circumstances during this period, I don't think the checks that Halifax conducted at this juncture were proportionate or reasonable and had it delved a bit deeper, it would have concluded that the increases over £800 at this time weren't affordable for Mr and Mrs O.

For the reasons given above I uphold the two overdraft limit increases in October 2019 over the £800 limit.

Period of November 2020 to August 2022

After Mr and Mrs O had cleared the overdraft in February 2020, using a further loan to do so, the credit limit increased incrementally throughout the year until in October 2020 it increased to £950. And I think that amount was probably affordable and sustainable for Mr and Mrs O at that time. I say this as up until the month before, the account had returned to credit and wasn't constantly overdrawn.

However, in November 2020 there was a further increase to £1,450 and this followed another in December 2020 to £1,900 and it remained at this level. Mr and Mrs O had both applied for repayment holidays on their Halifax loans during this period but had been declined. And although the credit checks conducted by Halifax at this time didn't reveal any adverse information, there had been returned direct debits during this period, a further

advance of credit into the account of £1,800 and additional further credit facilities taken out. There was also evidence of multiple cash advances on several of their existing credit cards.

So I think given what appeared to be an over reliance on hardcore borrowing and the increases in quick succession, I think Halifax needed to conduct further checks at this point to confirm the true nature of Mr and Mrs O's income and expenditure. Mr and Mrs O told us and I've seen evidence from their bank statements, that they were now making regular repayments to family members totalling £636 each month for money borrowed. And this was on top of their other monthly outgoings of around £3,788 including about £1,360 towards other debt commitments. In the three months prior to October 2020, the average monthly income, including child benefit was approximately £4,256.

So I think had Halifax conducted further checks at this time (and it already had access to Mr and Mrs O's current account statements) and made further enquires regarding their financial circumstances, it would have established that the two increases to £1,450 and £1,900 were neither affordable nor sustainable for Mr and Mrs O. I say this as their combined income at this time wasn't enough to cover the overall expenditure and it was evident from the borrowing increases, they were reliant on hardcore borrowing and in financial difficulty. And further evidence of this is that following the December 2020 increase to £1,900, Mr and Mrs O took out further loans totalling £10,000 and which included a further loan from Halifax of £4,275.

So for the reasons given above, I uphold the two further overdraft limit increases in November 2020 and December 2020 over the £950 limit.

Did Halifax act unfairly in any other way

I've also considered whether Halifax have acted unfairly or unreasonably in any other way and if an unfair relationship existed between Halifax and Mr and Mrs O, as defined by section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I've directed above results in fair compensation for Mr and Mrs O in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

To put things right, Halifax should:

1. Re-work the consumers' current overdraft balance so that any additional interest, fees and charges applied as a result of the overdraft limit increases from 7 October 2019 to 12 February 2020 (when the overdraft was cleared) are removed. This means that between those dates interest should only be charged on the first £800 of any overdrawn balance.
2. Re-work the consumers' current overdraft balance so that any additional interest, fees and charges applied as a result of the overdraft limit increases above £950 from 19 November 2020 to August 2022 are removed. This means that between those dates interest should only be charged on the first £950 of any overdrawn balance.

AND

- If an outstanding balance remains on the overdraft once the above two adjustments have been made Halifax should contact the consumers to arrange a suitable

repayment plan for this. If it considers it appropriate to record negative information on the consumers' credit files, it should backdate this to the relevant dates.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to the consumers, along with 8% simple interest (yearly) on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Halifax should remove any adverse information from the consumers' credit files.
†"

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give the consumers certificates showing how much tax it's taken off if they ask for one.

My final decision

My final decision is that I uphold Mr and Mrs O's complaint against Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 2 September 2025.

Paul Hamber
Ombudsman